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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/531,259	04/24/2006	Gisela Meister	MEIS3002/JEK	4669
23364 7590 09/01/2009 BACON & THOMAS, PLLC 625 SLATERS LANE FOURTH FLOOR ALEXANDRIA, VA 22314-1176				
EXAMINER				
DOAN, TRANG T				
ART UNIT		PAPER NUMBER		
2431				
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09/01/2009		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/531,259

**Applicant(s)**

MEISTER ET AL.

**Examiner**

TRANG DOAN

**Art Unit**

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 12 June 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 13 April 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-946)
- 3) ☐ Information Disclosure Statement(s) (PTO/CD/CD)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_
- Paper No(s)/Mail Date \_\_\_\_\_

**DETAILED ACTION**

1. This action is in response to the amendment filed on 05/18/2009.
2. Claims 1, 10 and 13-14 have been amended.
3. Claims 1-14 are pending for consideration.

***Continued Examination Under 37 CFR 1.114***

4. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 06/12/2009 has been entered.

***Response to Arguments***

5. Applicant's arguments with respect to claims 1-14 have been considered but are moot in view of the new ground(s) of rejection.
6. Applicant's argument with respect to the claim objections has been fully considered in view of the amendment filed 05/18/2009, which has been made in record, and the claim objections has been withdrawn.

***Claim Rejections - 35 USC § 102***

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

8. Claims 1, 3-10 and 12-14 are rejected under 35 U.S.C. 102(e) as being anticipated by Miyashita (US 7403765) (hereinafter Miyashita).

Regarding claim 1, Miyashita discloses a method for effecting a secure electronic transaction on a terminal using a portable data carrier arranged to perform different quality user authentication methods, wherein the portable data carrier performs a user authentication method, the portable data carrier confirms the proof of authentication to the terminal, and the portable data carrier then performs a security-establishing operation within the electronic transaction, comprising the step of creating quality information by the portable data carrier about said user authentication method used and attaching said authentication quality information to the result of the security-establishing operation, wherein the difference in quality of user authentication varies between an inherently relatively lower quality and an inherently relatively higher quality from a security perspective (Miyashita: see figure 2; column 3 line 50 through column 4 line 3:

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the importance levels 1 to 3 are set in accordance with the functions of the cellular phone, and the security level to be required is increased as the number increases; and column 5 lines 40-67).

Regarding claim 3, Miyashita discloses wherein the authentication of the user is performed by presentation of a biometric feature (Miyashita: column 3 lines 38-48: authentication means is fingerprint authentication).

Regarding claim 4, Miyashita discloses wherein the authentication of the user is performed by presentation of a physiological or behavior-based feature characteristic of a user (Miyashita: see figure 2).

Regarding claim 5, Miyashita discloses wherein the authentication of the user is performed by proof of knowledge of a secret (Miyashita: see figure 3).

Regarding claim 6, Miyashita discloses wherein at least two different authentication methods of different quality are offered for authentication of the user (Miyashita: column 5 lines 3-21).

Regarding claim 7, Miyashita discloses wherein the particular authentication methods not used are disabled (Miyashita: column 5 lines 40-67).

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Regarding claim 8, Miyashita discloses wherein no quality information is produced for an authentication method (Miyashita: column 6 lines 4-21).

Regarding claim 9, Miyashita discloses wherein a user is asked to select an authentication method (Miyashita: column 4 line 65 through column 5 line 21).

Regarding claim 10, this claim has limitations that is similar to those of claim 1, thus it is rejected with the same rationale applied against claim 1 above.

Regarding claim 12, this claim has limitations that is similar to those of claim 6, thus it is rejected with the same rationale applied against claim 6 above.

Regarding claim 13, this claim has limitations that is similar to those of claim 9, thus it is rejected with the same rationale applied against claim 9 above.

Regarding claim 14, Miyashita discloses a system for effecting a secure electronic transaction within which the quality of authentication of a user of the system is ascertained, comprising a portable data carrier according to claim 10 and a terminal according to claim 13 (Miyashita: see figure 1, figure 7 and figures 9ABC).

***Claim Rejections - 35 USC § 103***

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claims 2 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Miyashita in view of Barlow et al. (US 6810479) (hereinafter Barlow).

Regarding claim 2, Miyashita does not disclose wherein the security-establishing operation performed by the portable data carrier comprises creating a digital signature. However, Barlow discloses wherein the security-establishing operation performed by the portable data carrier comprises creating a digital signature (Barlow: See figure 9; column 6 lines 3-7; column 12 lines 49-55; column 15 lines 30-44; column 16 lines 23-45). Therefore, it would have been obvious to a person skilled art at the time the invention was made to have included in Miyashita the feature of Barlow as discussed above because encryption, decryption, digital signing, and verification are therefore the principal cryptographic primitives that are used in an electronic network setting to facilitate the security, privacy, authenticity, and integrity of information being exchanged (Barlow: column 3 lines 45-49).

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Regarding claim 11, this claim has limitations that is similar to those of claim 2, thus it is rejected with the same rationale applied against claim 2 above.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to TRANG DOAN whose telephone number is (571)272-0740. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, William R. Korzuch can be reached on (571) 272-7589. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



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/Trang Doan/

Examiner, Art Unit 2431

/Christopher A. Revak/

Primary Examiner, Art Unit 2431